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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/649,846

08/26/2003

Jack Forbes

5589.00003

7007

29747

7590

08/23/2006

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EXAMINER

KARKHANIS, AASHISH

ART UNIT

PAPER NUMBER

3714

DATE MAILED: 08/23/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/649,846	<b>Applicant(s)</b> FORBES, JACK	
	<b>Examiner</b> Aashish Karkhanis	<b>Art Unit</b> 3714	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 26 August 2003.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 26 August 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |                                                                                                    |                                                                             |
|----------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)               | Paper No(s)/Mail Date. _____                                                |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>8/26/03</u> .                                                             | 6) <input type="checkbox"/> Other: _____                                    |

## **DETAILED ACTION**

### ***Drawings***

1. New corrected drawings in compliance with 37 CFR 1.121(d) are required in this application because the hand-drawn flowchart of Figure 5 has very poor legibility.

Applicant is advised to employ the services of a competent patent draftsman outside the Office, as the U.S. Patent and Trademark Office no longer prepares new drawings. The corrected drawings are required in reply to the Office action to avoid abandonment of the application. The requirement for corrected drawings will not be held in abeyance.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

1. Claims 1 – 6, 8 – 12, 14 – 17 are rejected under 35 U.S.C. 102(b) as being anticipated by Wood et al. (U.S. Patent 6,342,007 B1).

Regarding Claims 1, 10 and 15, Wood discloses a method and gaming machine including a processor in communication with a random number generator and display (col. 3, lins. 6 – 11), one or more player interfaces (fig. 1) for playing a poker based wagering game including said player receiving five or more random cards (col. 3, lins. 11 – 12), said player selecting to hold one or more of the five or more random cards (col. 3, lins. 12 – 15), if said one or more hold cards is common to a royal flush, providing the player an opportunity to place a wager, if said player elects to place the

wager, replacing one or more of the non-hold cards with cards needed for partial completion of the royal flush such that the player has a higher probability of successfully drawing the royal flush after placing the wager than before placing the wager, randomly replacing one or each of the player's cards not common to the royal flush (col. 3, lins. 32 – 43; where if four cards are common to a flush, which may also be common to a royal flush, then a fifth card of the same suit is drawn, guaranteeing a flush and increasing the chance of completing a royal flush), and awarding said player a payout if a player's final poker hand is the royal flush (col. 3, lins. 43 – 45).

Regarding Claims 2 and 5, Wood discloses a method wherein if the player places the wager, the non-hold cards are replaced in such a number that the player holds a poker hand having four of the five cards necessary to complete the royal flush (col. 3, lins. 32 – 43; where if four cards are common to a flush, which may also be common to a royal flush, then a fifth card of the same suit is drawn, guaranteeing a flush and increasing the chance of completing a royal flush), wherein pre-established odds are related to the number of player selected hold cards common to the royal flush (col. 3, lins. 43 – 45; where a player is given an award based on a pre-established pay table which inherently has both payout values and odds related to those payout values).

Regarding Claims 3 – 4, 6, 8, 11 – 12 and 16 – 17, Wood discloses a method and a processor wherein if the player places the wager and the player's final hand is not a royal flush, the player continues to be eligible for an award based on the poker ranking of the player's final hand (col. 5, lins. 5 – 20; where an award table based on card combinations is sued for giving awards to a player for winning combinations),

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wherein the player receives an award if the poker ranking of the player's final hand is a minimum pre-established poker ranking less than the royal flush of a pair of jacks or better (col. 5, lin. 20; where a Pair of Jacks is the minimum value hand which is eligible for an award), wherein the player initially receives five or seven random cards (col. 3, lins. 10 – 12).

Regarding Claims 9 and 14, Woo discloses a method wherein the method is facilitated by an electronic gaming machine (col. 3, lins. 45 – 52).

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 7, 13 and 18 rejected under 35 U.S.C. 103(a) as being unpatentable over Wood et al. (U.S. Patent 6,342,007 B1).

2. Regarding Claims 7, 13 and 18, Wood discloses a method wherein pre-established odds are established (col. 5, lins. 5 – 20), but does not disclose a range from 40 to 1 to 50 to 1 on the wager. However, it would have been obvious to one of ordinary skill in the art at the time of the invention to have modified the electronic poker flush game with a specific pay table of Wood with the pay table as claimed by the applicant in order to change the profitability of a machine for a casino or the entertainment value of a machine for a player.

***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

U.S. Patent 5,033,744: Royal Flush instant win game.

U.S. Patent 5,332,219: Seven Card Royal Flush game.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Aashish Karkhanis whose telephone number is (571) 272-2774. The examiner can normally be reached on 0800-1630 M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Olszewski can be reached on (571) 272-6788. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

ARK

  
**JOHN M. HOTALING, II**  
**PRIMARY EXAMINER**